

REMARKS

Claims 24-31 were pending in the case and will remain pending upon entry of this Amendment.

Applicants acknowledge with appreciation the withdrawal of the obviousness type double patenting rejections.

With regard to the Section 103 rejection set forth in the Office Action, the Office Action opines that the Declaration provided earlier in this case is insufficient because only one compound was compared. Applicants respectfully traverse and argue that the Declaration was sufficient. However, to remove issues from the case and advance its prosecution, Applicants are providing herewith Declarations from Peter Dahmen and Ulrike Wachendorff with additional comparisons that are believed to overcome any possible rejection on this basis by the Examiner. Among other things, this illustrates that the difluoromethyl substitution shows a higher effect than the trifluoromethyl group, and this increase is not expected by a person skilled in the art. Additionally, Applicants can provide still further examples, but ask that the Examiner telephone the undersigned with that request before issuing another Office Action in this case. The undersigned will be happy to provide such additional examples as may reasonably be requested by the Examiner to prove the inventiveness of the present invention.

With regard to the 112, second paragraph rejection of claims 29-31, Applicants strenuously traverse. It would only be for a non-science English major that knew nothing of this technology that the word “controlling” could be ambiguous. For anyone even remotely involved with science that understands the terms “microbicidal” (among other places at page 4, lines 11-14 and page 14, lines 1-3 of the specification) and “fungicidal” (among other places, at page 1, line 6, page 5, lines 15-17 and page 14, lines 5-7 of the specification) it is clear what “controlling” means in the context of this application. And when it is clearly associated with “controlling **unwanted**” microorganisms there can be only one possible reasonable interpretation to one skilled in the art. And thus it is that in hundreds, perhaps thousands of claims, the term “controlling” has been used in the area of the art with crystal clarity for those skilled in the art. Miriam-Websters online medical dictionary at <http://medical.merriam-webster.com/medical/microbicidal> defines “microbicidal” as “destructive to microbes.” It describes “fungicidal” as “inhibiting the growth of fungi.” And if that were not all clear enough, the term “unwanted” makes it abundantly clear

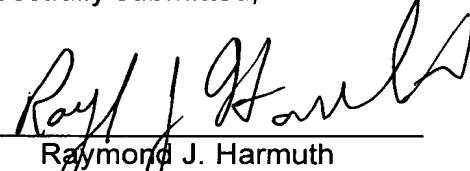
that one would not "increase" as suggested by the Office Action at its page 4. Why would one increase when they are not wanted in the first place!?!? However, again, in an effort to remove issues from the case and advance its prosecution, Applicants have amended the claims in an attempt to add still more clarity to that which was crystal clear to begin with.

With regard to the rejection under 35 USC 112, first paragraph, Applicants respectfully assert that the specification was fully enabling for the scope of the claims as presented prior to this Amendment. However, again, in an effort to remove issues from the case and advance its prosecution, Applicants have added that the control is for microorganisms in plants as suggested at page 4 of the Office Action.

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

The Director is hereby authorized to charge any fee(s) associated with this filing to Deposit account no. 50-2510.

Respectfully submitted,

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